

Eighty-Sixth Regular Session

WEDNESDAY, June 13, 1984

The chief clerk makes the following entries under the above date.

PETITIONS AND COMMUNICATIONS

State of Wisconsin
Claims Board

June 5, 1984

Don Schneider
Senate Chief Clerk
Madison, Wisconsin

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on May 23, 1984.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,
EDWARD D. MAIN
Secretary

STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on May 23, 1984, upon the following claims:

Claimant	Amount
Odell Hardison	\$2,379.00
Hy Dorosin	7,900.44
John Stebbins, Jr.	997.46

In addition, the following claims were considered and decided without hearings:

Frank Schaeffer	\$ 122.00
Frederick Oby	189.00
Kevin Wagner	109.95
Orville Olson	51.00
Wayne Ruenger	63.00
James Fehling	41.00
James O'Brien	2,323.00
Lynn Oestreich	1,215.40

THE BOARD FINDS:

1. Odell Hardison of Waupun claims \$2,379.00 for replacement cost of jewelry allegedly held by the Kettle Moraine Correctional Institution, where he was

incarcerated, since 1977. Some of the items have been returned to claimant. The Board recommends payment of this claim in the reduced amount of \$575.00 for reimbursement of the unreturned property, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(3)(a), Stats.

2. Hy Dorosin of Chicago, Illinois, claims \$7,900.44 for payment of 500 dozen cloth diapers supplied to the Southern Wisconsin Center in 1982. During early 1982 diapers at the Southern Wisconsin Center were deteriorating in the wash which had been performed by Adelman Laundry. At that time, Adelman agreed to replace the diapers. The Southern Wisconsin Center then contracted with claimant to provide 500 dozen diapers at a cost of \$13.25 per dozen and the Center has received the diapers from claimant. Later in 1982, Adelman underwent a management change and the new management claimed the state was being unjustly enriched under the replacement diaper agreement since the diapers were in varying stages of their useful lives. To date, claimant has not received any payment on the diaper order. The Board recommends the state in good conscience should compensate the claimant in the amount of \$7,900.44 based on equitable principles. The Board concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(2)(gk), Stats.

3. John Stebbins, Jr. of Milwaukee claims \$560.14 for the amount of insurance premiums and \$437.32 for his time spent pursuing his claim incurred as the result of the deduction of health insurance premiums from his payroll checks dated October through December, 1982, by the University of Wisconsin-Milwaukee, where he is employed. In April, 1982, after conversations with the University Staff Benefits Office, claimant chose to enroll in a University health insurance plan which provided 90% state contribution towards the health insurance. Claimant was eligible for the 90% state contribution because of the combination of his LTE employment and an academic staff appointment resulting in greater than 50% employment with the University of Wisconsin-Milwaukee. In the fall of 1982, claimant worked as an LTE but his academic staff appointment at the University was paid in a lump sum. Since no percentage of time was assigned to that work, the University interpreted claimant's employment as less than 50% and therefore, he was not eligible for the 90% state contribution for health insurance. However, claimant's academic staff appointment and time involvement remained the same. The Board concludes that the claim should be paid in the reduced amount of \$560.14, representing the amount of the insurance premiums deducted, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(1)(a), Stats.

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4. Frank Schaeffer of West Bend claims \$122.00 for reissuance of a stale dated check pursuant to s.16.007(6)(b), Stats. The check was originally issued out of the Department of Industry, Labor and Human Relations Unemployment Reserve Fund Benefit Account under s.108.16(6), Stats. Under that section, a check may be reissued any time within the next following year, if the check has not been presented for payment within one year after its date of issue. The Board finds that payment of this claim at the time would circumvent current legislative policy. The Board concludes this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. Frederick Oby of Milwaukee claims \$189.00 for the replacement cost of his wedding ring allegedly lost in September 1983, during the course of his duties as an employe of the University of Wisconsin-Milwaukee. Claimant was applying a straw mulch to a newly seeded area at the University of Milwaukee Chancellor's residence when his ring flew off. The Board concludes there is an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

6. Kevin Wagner of Poynette claims \$109.95 for replacement cost of his eyeglasses which were damaged on November 9, 1983, while he was herding pheasants at the State Game Farm in Poynette as part of his duties as an LTE employe of the Department of Natural Resources. The pheasants flew at claimant knocking his glasses from his head. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats, payment should be made from the Department of Natural Resources appropriation s. 20.370(1)(mu), Stats.

7. Orville Olson of Fence claims \$51.00 for the loss of poultry which were allegedly killed by wild mink on his farm on October 13, 1983. Even though legal title to all wild animals in Wisconsin is vested in the State pursuant to s.29.02(1), Stats., mere ownership does not create legal liability for damages done by wild animals. There is no showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Wayne Ruenger of Fox Lake claims \$63.00 for the replacement cost of his clothing which was damaged on February 16, 1984, by battery acid when a battery exploded while he was performing his duties as an employe of the Department of Health and Social Services at the Waupun Central Warehouse. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats, payment should be made from the Department of Health and Social Services appropriation s. 20.435(8)(k), Stats.

9. James Fehling of Beaver Dam claims \$41.00 for damage to his clothing incurred on February 16, 1984, by battery acid when a battery exploded while he was performing his duties as an employe of the Department of Health and Social Services at the Waupun Central Warehouse. The Board concludes the claim should be paid based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats, payment should be made from the Department of Health and Social Services appropriation s. 20.435(8)(k), Stats.

10. James O'Brien of Milwaukee claims \$2,323.30 for attorney fees and bank charges incurred when his 1981 state and federal tax returns were intercepted by the Department of Health and Social Services pursuant to ss. 71.105 and 46.255, Wis. Stats. Upon notice of the interception, claimant could have contacted the Child Support Agency, the Family Court Commissioner, or the Department of Health and Social Services' Office of Economic Assistance for assistance in appealing the tax intercepts. The Board concludes there has been no showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

11. The claim of Lynn Oestreich was previously approved for payment at the April 30, 1984 Claims Board meeting in the reduced amount of \$1,000.00. The Board approved payment of the claim in the reduced amount so that payment could be issued to claimant without legislative approval. The claimant was unwilling to accept \$1,000.00 as full and final settlement of this claim. The Department of Health and Social Services recommends that the claimant be reimbursed the total amount of the moving expenses he incurred. Upon reconsideration, the Board recommends the state should compensate the claimant in the amount of \$1,215.40, based on equitable principles. The Board concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(3)(a), Stats.

THE BOARD CONCLUDES:

1. The claims of the following claimants should be denied:

Frank Schaeffer
Frederick Oby
Orville Olson
James O'Brien

2. Payment of the following amounts to the following claims is justified under s. 16.007, Stats.:

Odell Harrison	\$575.00
John Stebbins, Jr.	560.14
Kevin Wagner	109.95
Wayne Ruenger	63.00
James Fehling	41.00

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THE BOARD RECOMMENDS:

1. Payment of \$7,900.44 be made to Hy Dorosin for payment of 500 dozen cloth diapers supplied to the Southern Wisconsin Center in 1982.
2. Payment of \$1,215.40 be made to Lynn Oestreich for moving expenses incurred when he was transferred from Oakhill Correctional Institution to Taycheedah Correctional Institution on February 6, 1983.

Dated at Madison, Wisconsin this 4th day of June, 1984.

JOHN J. MAURER
Senate Finance Committee

MARLIN D. SCHNEIDER
Assembly Finance Committee

DANAE DAVIS GORDON
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of Administration

WILLIAM H. WILKER
Representative of Attorney General

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison, Wisconsin

June 8, 1984

To the Honorable, the Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint CARL W. THOMPSON of Stoughton to the Labor and Industry, Review Commission pursuant to the statute governing, to serve a term to expire March 1, 1991.

Respectfully,
ANTHONY S. EARL
Governor

Read and referred to committee on Labor, Business, Veterans Affairs and Insurance.

SENATE CLEARINGHOUSE ORDERS

Clearinghouse Rule 83-181

AN ORDER to repeal and recreate ch. A-V 6, relating to travel and expense reimbursement, procurement and personnel in vocational, technical and adult education districts.

Submitted by Board of Vocational, Technical and Adult Education.

Report received from agency, June 8, 1984.

Referred to committee on Higher Education and Economic Development, June 13, 1984.

The committee on Aging, Financial Institutions and State Institutions reports and recommends:

Clearinghouse Rule 84-5

AN ORDER to repeal SEC 2.02 (10) (j), 2.025 and 7.01 (2) (g); and to amend SEC 1.02 (1) (b) and 7.01 (2) (e), relating to limited offering registration exemption provisions and examination fees and securities advertising.

No action taken.

Clearinghouse Rule 84-12

AN ORDER to amend S-L 30.25 (1) (a) and (b), relating to granting state chartered savings and loan associations authority to offer the money market account for IRA and Keogh plans.

No action taken.

Clearinghouse Rule 84-28

AN ORDER to amend Bkg 14.08 (2); and to create Bkg 14.08 (2) (a) to (c), relating to transfer of funds through a remote service unit.

No action taken.

Clearinghouse Rule 84-30

AN ORDER to amend CU 63.08 (2); and to create CU 63.08 (2) (a) to (c), relating to transfer of funds through a remote terminal.

No action taken.

RUSS FEINGOLD
Chair

State of Wisconsin
Department of Health and Social Services

June 8, 1984

To the Honorable the Legislature

You are advised, in accordance with s. 227.018(2), Stats., that the Department of Health and Social Services will not promulgate the following chapter of proposed rules and hereby withdraws the chapter from rule-making:

CHR 83-176 -- Reduction in AFDC Family Allowance when housing is shared (Shelter Proration)

We are not continuing in rule making with CHR 83-176 because the statute which the rules were to implement was replaced by 1983 Wisconsin Act 310.

If you have any questions about this action, you may contact me at 266-5602.

PAUL E. MENGE
Ad. Rules Mgr.

CITATIONS

MOTIONS UNDER SENATE RULE 98

A Certificate of Commendation by Senator Chilsen for FATHER FREDERICK A. KULOVITS on the occasion of his 25th year of service to the Wausau community;

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A Certificate of Commendation by Senator Roshell for WEAU-TV on the occasion of their receipt of the 1983 Media Award;

A Certificate of Congratulations by Senator Moen for ELAINE M. COLBY on the occasion of her retirement;

A Certificate of Congratulations by Senator Moen for NEOSHA B. DUFFIELD on the occasion of her retirement;

A Certificate of Congratulations by Senator Rude for DAVID FRANK on the occasion of his bravery;

A Certificate of Congratulations by Senator Rude for EARL A. OLZEN on the occasion of his bravery;

A Certificate of Congratulations by Senator Harsdorf for the WISCONSIN FEDERATION OF YOUNG REPUBLICANS on their 50th anniversary;

A Certificate of Commendation by Senator Harsdorf for SHANE WALKER on the occasion of exemplary courage and valor;

A Certificate of Congratulations by Senator Harsdorf for the NEW CENTERVILLE UNITED METHODIST CHURCH on the occasion of their 125 years of service;

A Certificate of Congratulations by Senator Harsdorf for MARILYN PEPLAU on the occasion of her receipt of the award of 'Wisconsin's Home Economics Teacher of the Year';

A Certificate of Commendation by Senator Harsdorf for DALE PETERSON on the occasion of his receiving the State Farmer Degree;

A Certificate of Congratulations by Senator Harsdorf for CRAIG and DIANE PAULSON on the occasion of their being named Outstanding Young Farmers by the Clear Lake Jaycees;

A Certificate of Commendation by Senator Harsdorf for SARA KUSKE on the occasion of her receiving the State Farmer Degree;

A Certificate of Congratulations by Senator Harsdorf for NICK DAHL on the occasion of his achieving the esteemed position of Eagle Scout;

A Certificate of Congratulations by Senator Harsdorf for JOE DAHL on the occasion of his achieving the esteemed position of Eagle Scout;

A Certificate of Congratulations by Senator Harsdorf for MR. and MRS. JOHN BOL on the occasion of their 60th wedding anniversary;

A Certificate of Congratulations by Senator Harsdorf for MR. and MRS. OSCAR LEE on the occasion of their Golden Wedding Anniversary;

A Certificate of Congratulations by Senator Harsdorf for MR. and MRS. HARRIS ALBERTSON on the occasion of their Golden Wedding Anniversary;

A Certificate of Congratulations by Senator Harsdorf for MR. and MRS. WALLIE GERDES on the occasion of their Golden Wedding Anniversary;

A Certificate of Congratulations by Senator Harsdorf for GEOFF HILL on the occasion of his achieving the esteemed position of Eagle Scout;

A Certificate of Congratulations by Senator Harsdorf for DAVID ANDREA on the occasion of his achieving the esteemed position of Eagle Scout;

A Certificate of Congratulations by Senator Harsdorf for JOHN LEVI on the occasion of his achieving the esteemed position of Eagle Scout;

A Certificate of Commendation by Senator Harsdorf for CHARLES THIEL on the occasion of his receiving the State Farmer Degree;

A Certificate of Commendation by Senator Lorge for IAN KLING on the occasion of his saving two human lives;

A Certificate of Congratulations by Senator Lorge for KEITH and JUDY LONG and DONALD and CYNTHIA LONG on the occasion of their receiving the 1984 Master Agriculturist Award;

A Certificate of Commendation by Senator Engeleiter and Representative Schneiders for MARY MAHER on the occasion of her retirement;

A Certificate of Commendation by Senator Engeleiter and Representative Schneiders for LORRAINE HELBERT on the occasion of her retirement;

A Certificate of Commendation by Senator Engeleiter and Representative Schneiders for ELEANOR GOODWILL on the occasion of her retirement;

A Certificate of Congratulations by Senator Johnston for HELEN GROSSMAN on the occasion of her receiving the Kesselman Senior Service Award;

A Certificate of Commendation by Senator Kreul and Representative R. Travis for FRANK BIBA on the occasion of his receiving the 1983 Governor's Youth Award for Meritorious Action;

A Certificate of Commendation by Senator Harsdorf for DAVID PEPPER on the occasion of his being chosen by the Wisconsin Future Farmers of America as a Star Farmer;

A Certificate of Commendation by Senator Harsdorf for EDMOND M. HAYES on the occasion of his retirement;

A Certificate of Congratulations by Senator Harsdorf for LIL THOMPSON on the occasion of her 90th birthday;

A Certificate of Congratulations by Senator Davis for BOB DUNCAN on the occasion of his retirement;

A Certificate of Congratulations by Senator Norquist for LAVERNE (LARRY) MOORE on the occasion of his receiving a Kesselman Senior Service Award;

A Certificate of Commendation by Senator Risser for PROFESSOR JAMES DONOGHUE on the occasion of his retirement from the UW-Madison faculty;

A Certificate of Commendation by Senator Harsdorf for DR. MARTIN GISWOLD on the occasion of his retirement;

A Certificate of Congratulations by Senator Norquist for TONY and MARY SCHAFFNER on the occasion of their 50th Wedding Anniversary;

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A Certificate of Congratulations by Senator Cullen for ROBERT COLLINS on the occasion of his resignation from the Janesville School Board;

A Certificate of Commendation by Senator Lasee for ST. MARK CHURCH, Two Rivers, on the occasion of their celebrating 60 years as a Christian community;

A Certificate of Congratulations by Senator Cullen for ALBERT HOUGH on the occasion of his resignation from the Janesville School Board;

A Certificate of Congratulations by Senator Harsdorf for ED GRUTT on the occasion of his ninety-ninth birthday;

A Certificate of Commendation by Senator Harsdorf for GLADYS JORGENSON on the occasion of her receipt of the award of merit from the Wisconsin Association of Homes for the Aging;

A Certificate of Commendation by Senator Davis and Representative Wimmer for the NORTH PRAIRIE VOLUNTEER FIRE DEPARTMENT on the occasion of the 50th anniversary of the North Prairie Volunteer Fire Department;

A Certificate of Congratulations by Senator Otte and Representative Potter for DWIGHT PELKIN on the occasion of his retirement;

A Certificate of Congratulations by Senator Helbach and Representative Hasenohrl for ENOCH BRICE on the occasion of his retirement;

A Certificate of Congratulations by Senator Feingold and Representative R. Thompson for THE HONORABLE MAE G. OEHLERT on the occasion of her retirement as Postmaster of the Village of Doylestown, June 1, 1984;

MOTIONS UNDER JOINT RULE 7

A Certificate of Commendation by Representative Becker, M. Coggs, and Barrett cosponsored by Senator Norquist for JEROME BRANDL on the occasion of being awarded Educator of the Year.